

February 25, 2005

DENNIS HAUGEN
6528 MT TACOMA DR SW
LAKEWOOD WA 98499

Subject: Complaint Alleging Violations of RCW 42.17.130 by Candice Bock, City of Lakewood Assistant Manager - PDC Case No. 05-078

Dear Mr. Haugen:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint alleging that Candice Bock, an assistant city manager of the City of Lakewood, campaigned while on staff-time on September 10 and September 17, 2004 in favor of Proposition 1, a local ballot measure, thereby using the city's facilities to support a ballot proposition.

PDC staff reviewed your complaint in light of the following statute and administrative rule:

RCW 42.17.130 states in part:

“No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for...the promotion of or opposition to any ballot proposition.”

“[T]he foregoing provisions of this section shall not apply to the following activities:

...Activities which are part of the normal and regular conduct of the office or agency.”

WAC 390-05-273 states in part:

“Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.”

You alleged that during a city sponsored meeting, called “Coffee with the Mayor,” held on September 10, 2004, Ms. Bock campaigned for Proposition 1 by doing the following: (1) suggesting that Lakewood Refuse, a garbage service, include pro-bond statements in garbage bills; (2) introducing the pro-bond campaign committee co-chairs at the city sponsored meeting; and (3) making a presentation at the meeting that did not address other funding sources available to the city for a new police station, other than the ballot measure funding source.

We found:

- The “Coffee with the Mayor” meetings are a monthly business forum open to the public, held the second Friday of each month at Saint Clare Hospital Resource Center. Candice Bock, as assistant city manager, represents the Mayor’s staff at the meetings. The topic of the September 10th meeting was the Lakewood Police Station Bond, during which Police Chief Larry Saunders was scheduled to speak, as was Ms. Bock, at the Mayor’s request.
- PDC staff found no evidence that there was a discussion during the September 10th meeting concerning inserting Proposition 1 information in garbage bills. Ms. Bock, as well as Sherri Thomas and John Simpson, the co-chairs of the Yes for Police committee and attendees of the meeting in question, all state that Ms. Bock did not discuss garbage bills during the meeting. PDC staff also contacted Gwen Young, an individual randomly selected from the “Coffee with the Mayor” attendance sign-in sheet. Ms. Young stated that during the meeting Ms. Bock was careful to avoid saying anything that would be considered inappropriate.
- PDC staff found no evidence that Ms. Bock introduced the pro-bond campaign committee co-chairs at the city sponsored meeting. Ms. Young, Ms. Thomas, and Mr. Simpson all state that self introductions were made at the beginning of the meeting. When an audience member questioned whether there was a pro-bond campaign committee, Ms. Thomas and Mr. Simpson both state that they answered the question.
- Concerning your allegation that Ms. Bock made a promotional presentation that did not address funding sources other than the ballot measure, Ms. Bock stated that she and Mr. Saunders were aware of, and complied with, the requirement to not promote the ballot proposition. Ms. Bock stated that their presentation was neutral, factual, and based on the city’s fact sheet released about the issue. Ms. Bock also stated that other funding options were not viable alternatives for financing a new police station.

Ms. Bock does not deny in her written response that her presentation only addressed the ballot measure funding source, which was the agenda topic of the meeting. Ms. Bock states that your position that councilmanic bonds are a funding option available to the City of Lakewood “*ignores entirely the City’s current budget deficit...*” Ms. Bock states that her understanding of your position is that the City of Lakewood has a surplus available in the budget that could be used to pay for the facility. Ms. Bock states that it is

the position of the City Manager that City services would have to be significantly cut to build the police facility if Proposition 1 fails. She states, "*The existence of an ... opinion to the contrary does not make this any less of a fact for the City.*"

You also allege that on September 17, 2004, Ms. Bock attended a campaign meeting held at Burr's Restaurant and remained at the meeting until after 8:30 a.m., which you state is when the official work day begins at City Hall.

We found:

- Ms. Bock is a salaried employee, who works approximately 45-50 hours a week, typically from 9:00 a.m. to 5:30 p.m. The Lakewood City Attorney, Heidi Watcher, stated that the City cannot denote particular hours to salaried employees due to the Fair Labor Standards Act.
- Ms. Bock acknowledges that she attended the campaign committee meeting in question as a "*private citizen*," and not as a representative of the City, which she recalls stating to other attendees. Ms. Bock states that on the date in question she recalls leaving the campaign meeting at approximately 8:30 a.m., in order to travel to Tacoma for a 9:00 a.m. meeting on City business. Ms. Bock states that she arrived at the City meeting on time.

PDC staff found no evidence that Ms. Bock campaigned at the September 10, 2004 meeting, or used staff time on September 17th to attend a campaign meeting.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Candice Bock.

If you have questions, please feel free to contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

c: Candice Bock